
HOUSE BILL 2107

State of Washington 60th Legislature 2007 Regular Session

By Representatives Schual-Berke, B. Sullivan, Blake, Newhouse, Dickerson, Strow, Kagi, Orcutt, McCoy, Cody and VanDeWege

Read first time 02/08/2007. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to innovative settlement agreements; amending RCW
2 90.48.037; and adding a new section to chapter 90.48 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 90.48.037 and 1991 c 200 s 1102 are each amended to
5 read as follows:

6 (1) The department, with the assistance of the attorney general, is
7 authorized to bring any appropriate action at law or in equity,
8 including action for injunctive relief, in the name of the people of
9 the state of Washington as may be necessary to carry out the provisions
10 of this chapter or chapter 90.56 RCW.

11 (2) The department, with the assistance of the attorney general, is
12 authorized to offer the option of an innovative settlement agreement in
13 lieu of appeal for all violators of this chapter or chapter 90.56 RCW
14 except in cases of:

15 (a) Criminal violations;

16 (b) Cases where the violation is not corrected; or

17 (c) Violators that have unpaid penalties under this chapter or
18 chapter 90.56 RCW.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.48 RCW
2 to read as follows:

3 (1) The department is authorized to offer an innovative settlement
4 agreement in lieu of appeal to violators of this chapter or chapter
5 90.56 RCW who choose not to appeal the penalty. Nothing in this
6 section restricts the department's ability to enter into innovative
7 settlement agreements after the appeals process has begun.

8 (2) An innovative settlement agreement must meet the following
9 standards:

10 (a) The request to proceed with an innovative settlement agreement
11 in lieu of appeal must be made within thirty days after the date of
12 receipt of the notice imposing the penalty, or thirty days after the
13 date of receipt of the notice of disposition of the application for
14 relief from penalty. On the thirty-first day after receipt of the
15 notice of penalty:

16 (i) The penalty becomes due and payable;

17 (ii) The violator must request an innovative settlement in lieu of
18 appeal; or

19 (iii) The violator must appeal to the pollution control hearings
20 board and follow all applicable rules of chapter 43.21B RCW.

21 (b) The innovative settlement agreement must be agreed upon with
22 the department within ninety days after beginning the settlement
23 process.

24 (i) The ninety-day timeline may be extended to one hundred twenty
25 days by mutual agreement.

26 (ii) If mutual agreement is not reached within one hundred twenty
27 days, the penalty becomes due and payable.

28 (3) An innovative settlement agreement must meet the following
29 standards:

30 (a) It must be completed within two years;

31 (b) It cannot be for projects currently required under any federal,
32 state, or local law or regulation;

33 (c) It must be within the same watershed where the violation took
34 place;

35 (d) It must not directly benefit the violator individually;

36 (e) The total monetary or in-kind payments must be equal to the
37 assessed penalty;

1 (f) Twenty percent of the penalty money must be deposited into the
2 coastal protection fund, created in RCW 90.48.390;

3 (g) All publicity occurring as a result of this project must cite
4 the penalty assessed and the resulting innovative settlement agreement;
5 and

6 (h) No portion of the penalty money, in-kind contributions, or
7 project may be tax deductible as a charitable contribution.

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